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Finksburg, MD 21048

(Assignee)

MAILED

APR 23 2009

William R. Sprague  
16605 Winterwoods Ct.  
Rockville, MD 20853

(First Named Inventor)

CENTRAL REEXAMINATION UNIT

In re Application of  
William R. Sprague et al.  
Application No. 09/458,132  
Filed: December 9, 1999

: SHOW CAUSE ORDER &  
: LETTER FORWARDING  
: RETURNED ORDER  
: TO SHOW CAUSE

This is a letter informing the first named inventor and the assignee of record of U.S. Patent No. 5,842,629 ("the '629 patent") of undelivered mail in the above-identified reissue application, which requests reissue of the '629 patent.

This is also a remailing of the attached March 10, 2009 show cause order based on the expiration of U.S. Patent No. 5,842,629, for which patent the present application requests reissue.

On March 10, 2009, the Office mailed the attached Order to Show Cause to the correspondence address of record for reissue application No. 09/458,132 ("the '132 reissue application").<sup>1</sup> The Image File Wrapper record for the '132 reissue application reveals that the United States Postal Service was not able to deliver the March 10, 2009 Order; the returned Order was received by the Office on March 18, 2009.<sup>2</sup> In accordance with MPEP 707.13, the March 10, 2009 Order is hereby being forwarded to the first named inventor, and also to the assignee of record, of the '629 patent.

The time period for reply to the Order to Show Cause is hereby reset to expire 30 DAYS from the mailing date of this letter and reissued Show Cause Order.

Failure by applicants to respond to the show cause order within the 30-day period set herein will result in termination of the present reissue proceeding by default, followed by a mailing of a Notice of Abandonment in the '132 reissue application.

<sup>1</sup> The correspondence address of record for the '132 reissue application is Law Offices of Royal W. Craig, 10 North Calvert Street, Suite 153, Baltimore, MD 21202.

<sup>2</sup> A copy of the returned envelope which contained the March 10, 2009 Order is attached; it is also viewable in the Image File Wrapper record for the '132 reissue application.

Jurisdiction over the '132 reissue application is being retained by the Office of Patent Legal Administration, pending a response by the applicants, or the expiration of time for a response.

Telephone inquiries related to this letter or the March 10, 2009 Order should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.



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Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration

Enclosures:      copy of March 10, 2009 Order to Show Cause  
                     copy of returned envelope which contained March 10, 2009 Order

April 22, 2009

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,132	02/16/2000	WILLIAM R. SPRAGUE	SPRAGUE-REI-	8479

7590 03/10/2009  
LAW OFFICES OF ROYAL W. CRAIG  
10 NORTH CALVERT STREET  
SUITE 153  
BALTIMORE, MD 21202

EXAMINER
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FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3689

MAIL DATE	DELIVERY MODE
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03/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



Law Offices of Royal W. Craig  
10 North Calvert Street  
Suite 153  
Baltimore, MD 21202

MAILED

MAR 10 2009

CENTRAL REEXAMINATION UNIT

In re Application of  
William R. Sprague et al.  
Application No. 09/458,132  
Filed: December 9, 1999  
Practitioner Docket No.: SPRAGUE-REI-1

:  
: ORDER TO  
: SHOW CAUSE  
:  
:

This is a show cause order based on the expiration of U.S. Patent No. 5,842,629, for which patent the present application requests reissue.

### BACKGROUND

1. Reissue application No. 09/458,132 ("the '132 reissue application") was filed on December 9, 1999, for reissue of U.S. Patent No. 5,842,629 ("the '629 patent") issued December 1, 1998.
2. The '132 reissue application is pending. The Image File Wrapper record reveals that a decision granting a petition to withdraw holding of abandonment was issued on January 5, 2005, and that the prosecution of the application is not closed.
3. The Office's financial records reveal that the 7.5 year maintenance fee due by December 1, 2006 (the end of the maintenance fee grace period), was not paid.
4. The '629 patent expired at midnight on December 1, 2006, for failure to pay the 7.5 year maintenance fee due.<sup>1</sup> Notice of the expiration of the '629 patent for failure to pay the 7.5 year maintenance fee was published on January 30, 2007, in the *Official Gazette*.<sup>2</sup>

### ORDER TO SHOW CAUSE

As pointed out above, the '132 reissue application is for reissue of the '629 patent; the '629 patent expired for failure to pay the 7.5 year maintenance fee. A notice of the expiration of the '629 patent was published in the *Official Gazette*. Because the '629 patent expired for failure to pay the second maintenance fee, the Director of the USPTO

<sup>1</sup> See: MPEP § 2506, third paragraph.

<sup>2</sup> See: <http://www.uspto.gov/web/offices/com/sol/og/2007/week05/patexpi.htm>.

no longer has the authority under 35 U.S.C. § 251 to reissue the '629 patent. See *In re Morgan*, 990 F.2d 1230, 26 USPQ2d 1392 (Fed. Cir. 1993). As stated in *Morgan*,

"The language of section 251 is unambiguous: the Commissioner has authority to reissue a patent only 'for the unexpired part of the term of the original patent.' Thus, when *Morgan's* original patent expired on August 19, 1992, the Commissioner was divested of his reissue authority because there no longer was an unexpired term of the patent for which *Morgan's* patent could be reissued. *Morgan's* appeal thus became moot." [990 F.2d at 1231, 26 USPQ2d at 1393; emphasis added]

Because the Director no longer has the authority under 35 U.S.C. § 251 to reissue the '629 patent, the Office intends to terminate the present reissue proceeding, and thereafter hold the '132 reissue application to be an abandoned application.

Applicants are hereby provided with a period of **30 DAYS** from the mailing of this ORDER to show cause why the Office should not terminate the present reissue proceeding.

If applicants propose to show cause why the present reissue proceeding should not be terminated, applicants' showing must include an explanation of why the proceeding should continue in spite of the expiration of the original patent.

If applicants make a showing, the showing will be evaluated as to whether it provides sufficient basis as to why the present reissue proceeding should not be terminated. A failure to respond to this show cause order within the set 30-day period will result in the proceeding being terminated by default. If the present reissue proceeding is terminated, jurisdiction over the present application for reissue of the '629 patent will be returned to Technology Center Art Unit 3689 for processing as an abandoned application.

### CONCLUSION

1. Applicants are hereby provided with a period of 30 DAYS from the mailing of this ORDER to show cause why the Office should not terminate the present reissue proceeding.
2. Failure by applicants to respond to this show cause order within the set 30-day period will result in termination of the present reissue proceeding by default, followed by a mailing of a Notice of Abandonment in the '132 reissue application.
3. Jurisdiction over the '132 reissue application is being retained by the Office of Patent Legal Administration, pending a response by the applicants, or the expiration of time for a response.

4. Telephone inquiries related to this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

A handwritten signature in dark ink, appearing to read "Kenneth M. Schor", is written over a horizontal line.

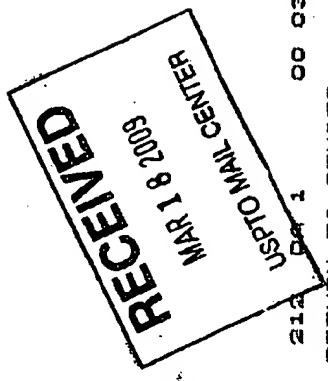
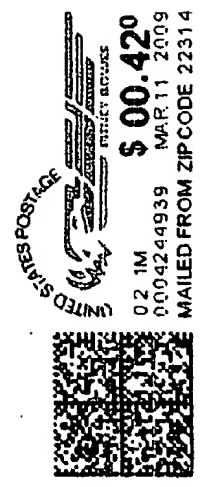
Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration

11/11/11

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09/458,132 02/16/2000 WILLIAM R. SPRAGUE  
7590 03/10/2009  
LAW OFFICES OF ROYAL W. CRAIG  
10 NORTH CALVERT STREET  
SUITE 153  
BALTIMORE, MD 21202

NIXIE 212 001 00 03/14/09  
RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD  
EC: 22313145050 \*1092-05369-11-02

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